

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Monroe Area Broadcasters, Inc.)	
)	File Number EB-02-AT-092
Licensee of AM Radio Station WRKQ)	
)	NAL/Acct. No.20023248009
Madisonville, Tennessee)	
)	FRN 0003-7200-59
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 27, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture*, we find that Monroe Area Broadcasters, Inc. (“Monroe”), licensee of AM radio station WRKQ at Madisonville, Tennessee, willfully and repeatedly violated Sections 73.1745(a), 73.1201(a)(2), and 73.44(b) of the Commission's Rules (“Rules”),¹ by operating with daytime power at night, failing to identify the station by call sign, and failing to sufficiently attenuate transmission system emissions by the amount prescribed in the Rules. We find Monroe Area Broadcasters, Inc. apparently liable for forfeiture in the amount of nine thousand dollars (\$9,000).

II. BACKGROUND

2. On March 21, 2002, the FCC Enforcement Bureau’s Atlanta Field Office (“Atlanta Office”) received two complaints alleging that WRKQ was not reducing power at sunset, not identifying by call sign, and that the station’s transmitter had spurious emissions which were interfering with other stations, including the reception of WWV on 2.5 MHz. WRKQ is assigned the frequency 1250 kHz. Its second harmonic of 2.5 MHz falls on WWV’s authorized frequency of 2.5 MHz.

3. On May 14, 2002, an agent from the Atlanta Office monitored WRKQ’s signal. Field

¹ 47 C.F.R §§ 73.1745(a), 73.1201(a)(2), and 73.44(b).

strength measurements revealed that WRKQ did not reduce power at sunset as required by the station authorization. WRKQ remained at daytime power all night. Local sunset is 8:30 pm EDT in May. Also, spectrum analyzer measurements of WRKQ's second harmonic on 2.5 MHz revealed that it was attenuated 55 dB below the unmodulated carrier level. The Rules require attenuation of 70 dB for a 500-watt station. WRKQ also failed to identify by call sign between 7:00 and 10:00 pm EDT.

4. On May 15, 2002, the agent again monitored WRKQ's signal. Field strength measurements revealed that WRKQ did not reduce power at sunset as required by the station authorization. WRKQ remained at daytime power all night. Again, spectrum analyzer measurements of WRKQ's second harmonic on 2.5 MHz revealed that it was attenuated 55 dB below the unmodulated carrier level.

5. On May 16, 2002, the agent inspected radio station WRKQ. Monroe's operator on duty admitted to operating with daytime power all night, stated that the station had received verbal authority from the FCC to do so, but had never received any written authorization. The agent advised the operator that the transmitter's second harmonic was not adequately attenuated and that the station had failed to identify by call sign during a three-hour period on May 14, 2002.

III. DISCUSSION

6. Section 73.1745(a) of the Rules states that no broadcast station shall operate at times, or with modes or power, other than those specified and made part of the license. WRKQ operated with daytime power all night on May 14 and May 15, 2002. Section 73.1201(a)(2) of the Rules requires broadcast licensees to identify the station hourly by call sign, as close to the hour as possible, at a natural break in programming. WRKQ failed to identify by call sign from 7:00 to 10:00 PM EDT on May 14, 2002. Section 73.44(b) requires that the emissions of an AM broadcast station that are removed by more than 75 kHz from the carrier be attenuated at least $43 + 10 \text{ Log}(\text{Power in watts})$ or 80 dB below the unmodulated carrier level, whichever is the lesser attenuation. On May 14 and 15, 2002, WRKQ's second harmonic on 2.5 MHz was attenuated only 55 dB below the unmodulated carrier level. Previously, on June 4, 1998, the Atlanta Office issued to Monroe an Official Notice of Violation citing violation of Section 73.44(b) as a result of Monroe's failure to attenuate its second harmonic emissions.

7. Based on the evidence before us, we find Monroe willfully² and repeatedly³ violated

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent

Sections 73.1745(a), 73.1201(a), and 73.44(b) of the Rules by operating with daytime power at night, failing to identify the station by call sign, and failing to attenuate transmission system emissions by the amount prescribed in the Rules.

8. Pursuant to Section 1.80(b)(4) of the Rules,⁴ the base forfeiture amount for exceeding power limits is \$4,000, failure to identify is \$1,000, and unauthorized emissions is \$4,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵ Considering the entire record and applying the factors listed above, this case warrants a \$9,000 forfeiture.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ Monroe Area Broadcaster, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of nine thousand dollars (\$9,000) for willful and repeated violation of Sections 73.1745(a), 73.1201(a)(2), and 73.44(b) of the Rules, by operating with daytime power at night, failing to identify the station by call sign, and failing to attenuate the second harmonic by the amount prescribed in the Rules. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this *Notice Of Apparent Liability*, Monroe Area Broadcasters, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *Notice of Apparent Liability* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington,

to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ The term “repeated” means the commission or omission of an act more than once or, if such commission or omission is continuous, for more than one day. 47 U.S.C. § 312(f)(2).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

D.C. 20554.⁸

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. IT IS FURTHER ORDERED THAT a copy of this *Notice Of Apparent Liability* shall be sent by regular mail and Certified Mail Return Receipt Requested to Monroe Area Broadcasters, Inc., P. O. Box 489, Madisonville, TN 37354.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.